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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,273	11/25/2003	Lars Holmgren	11847/46002	6582

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EXAMINER	
TUNGATURTHI, PARITHOSH K	
ART UNIT	PAPER NUMBER
1643	
MAIL DATE	DELIVERY MODE
03/25/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/720,273	HOLMGREN ET AL.	
	Examiner	Art Unit	
	PARITHOSH K. TUNGATURTHI	1643	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires *4* months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: *21,22,26 and 27*.
   Claim(s) objected to: *NONE*.
   Claim(s) rejected: *23-25 and 28-32*.
   Claim(s) withdrawn from consideration: *33*.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/David J Blanchard/
Primary Examiner, Art Unit 1643

Continuation of 5. Applicant's reply has overcome the following rejection(s):
1. The objection of the disclosure is withdrawn in view of the amendments to the specification
2. The rejection of claims 21 and 26 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement is withdrawn in view of amendments to the claims.
3 The rejection of claims 21 and 26 under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for an antibody or antibody fragment which specifically binds to an isolated mammalian protein comprising an amino acid sequence as set forth in SEQ ID NOs: 2, 3 and 4, does not reasonably provide enablement for an antibody or antibody fragment which specifically binds an isolated mammalian protein comprising an amino acid sequence having at least 80% sequence homology to SEQ ID NOs: 2, 3 or 4 is withdrawn in view of amendments to the claims.

Continuation of 11. does NOT place the application in condition for allowance because:
1. Claims 23-25 and 28-32 remain rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.
The applicants argue that the claims are now amended to recite 98% sequence homology and thus obviates the rejection. Such arguments ae carefully considered but are not found persuasive. The claims still recite "80% homology to SEQ ID NO:2 or 3" and "an amino acid sequence comprising at least 10 contiguous amino acid residues of SEQ ID NO:2" Further, the amendment of the claims (claims 31 and 32) to recite the hybridization condition does not suffice for the description of all the amino acid sequences encoded by a nucleic acid molecule that binds under stringent conditions to the nucleotide sequence from position 797-2824 or from position 2180-2606 of SEQ ID NO:1.
2. Claims 23-25 and 28-32 remain rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for an antibody or antibody fragment which specifically binds to an isolated mammalian protein comprising an amino acid sequence as set forth in SEQ ID NOs: 2, 3 and 4, does not reasonably provide enablement for an antibody or antibody fragment which specifically binds an isolated mammalian protein comprising an amino acid sequence having at least 80% sequence homology to SEQ ID NOs: 2, 3 or 4. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make or use the invention commensurate in scope with these claims.
The applicants argue that the claims are now amended to recite 98% sequence homology and thus obviates the rejection. Such arguments ae carefully considered but are not found persuasive For the reasons stated above and because the specification fails to teach the antibodies that bind to polypeptides comprising at least 80% sequence homology to SEQ ID NOs:2, 3 and 4, OR any peptide that has an amino acid sequence comprising at least 10 contiguous amino acid residues of SEQ ID NO:2 OR any polypeptide encoded by the nucleotide sequence from position 797-2824 and from position 2180-2606 of SEQ ID NO:1; it would require undue experimentation by one of skill in the art to practice the invention as claimed.